A Semiotic Perspective on Legal Language

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Abstract: Language, generally, the legal one, in particular, is subject to mandatory rules of specialization of the semantic system of terms and statements. The pressure of the tradition of the legal act proves to be an inhibiting factor of its becoming, being relevant perspective of the issuer, being seen either as a legislator, either as a practitioner in the system: the new technological mobility requires major rethinking, even a move of emphasis from the transmitter the receiver, which means that the first one must consider the translatability of terms in widely used languages for effective communication in the new contexts.

Keywords: code/coding; speech; statement; saeculum; translatability

Looking from semiotic perspective, language is a given, a something already existing, an "abstract system of signs and conventions underlying the individual acts of enunciation" (O'Sulivan et al. 2001, p. 193). The pre-existence of language is synonymous with the coexistence of several languages, which are found in separate areas or in the same territory, for the latter causing problems of multi and interculturalism. Language is like a musical score or a chess game: they both pre-exist, and they can be acquired at various degrees of personal interpretation. Nobody chooses their native language, religion or legal system. Everyone has them imposed by generation parents, which in turn follow a custom.

Once they are assumed, they become personal purchases by which individuals socialize, or interact or communicate with others and they communicate themselves. Styles are subsidiary to language that function according to some well adjudicated rules, this distinction between them is only formal, but also according to the degree of expression which tends to zero in case of scientific style and it

becomes maxim in case of belletristics. In the official and administrative style, it detaches a component that tends to assume autonomy: legal language, which, in its form becomes a discursive event or an act of speech, different said it communicates content, it addresses to a recipient, and it expresses something in a scientific way. In terms of language theory (Ducrot & Schaeffer, 1996), the legal discourse involves an act of speech (something is stated), an act of receiving (it implies the other) and a prolocutor act (you pose on the other). Based on these components of speech acts, we propose an analytical and corrective approach of the Romanian legal discourse, analyzing the modellers factors of legal language, able to reduce its particular prolocutor component and thus alleviate the tensions in public space, often generated by the speaker's limited ability to communicate and the listener to perceive correctly the message of the law. Its letter and the spirit, a phrase dear to lawyers, mainly aimed at the court of the issuer, namely the legislator and the practitioner, neglecting the connotation effects of the text of the law. Pragmatism requires a shift of interest from the conceptual side on the preventive effects or enforcement of the law, which presupposes a significant adaptation of language to what is the waiting horizon of the justifiable citizen.

By waiting horizon we designate: the ability to perceive correctly the terms, the possibility of equivalence by translating into international languages and, obviously, to adapt them in the spirit of the age (saeculum). Developed in different eras, according to distinct social philosophy, the Romanian legal system has problems of language consistency, with unpredictable effects at the level of judicial practice and the ability to communicate effectively with other judicial systems. It is necessary, therefore, a reshaping of the legal language from the corrective and predictive point of view. The paradigm component also applies to language modelling, according to which choosing the right word from a similar set is a daily operation, but also the syntagmatic one, that is the joints and relations from the construction of statement and discourse.

The need to change from a law with policy marks specific to socialist system to another, synchronized with the new political realities existing in Romania, had the immediate effect of intense legal activity which either corrected the existing ones or developed new ones according to a completely different philosophy. In drafting the laws in the years after December 1989, there is a noticeable hesitation at syntagmatic level. Drafting the law under imperative time pressure in a climate of permanent political tension, natural in a democratic system, had as an immediate effect the conceptual and discursive intermixture so that changes, additions, repeals

and other changing operations exceed, often, quantitatively, the original text. From here it derives the difficulties of judicial convention, including the public perception towards the idea of legislative decline or judicial incoherence. Our analytical approach analyses the necessary legislative text processing language, before it is adopted, promulgated, published and therefore entered into the public domain. In itself, the language processing, as we conceive it here, is a modelling based on several factors, fully aware or not, the legislator and the beneficiary of the legislative act and the justiciable, where the Constitution ensures that “free access to justice", according to article 21, its conditions are numerous, often taking the form of perceived limitations of the document text and of its discursive act.

We understand by perception, the forms that the law takes by the public, by the media, intermediary between the citizen and the legal system and by practitioners and scholars of the judicial act. We summarize the analytical discourse in a single text, Law no. 45/1994 on the National Defence Law of the country, as amended, which we perceive as text and not as legal philosophy. Semiotics and language allow us to identify dysfunctions, to explain their causes and propose correcting solutions to the given text, with general effect on other of this type.

1. Diachronic Perspective

Historical, factual and mentality arguments, call for a continuation of the legal act, in a strict area, such as the “national defence”, especially since this part of public life is loaded with emotional-patriotic connotations and it concerns the safety of the citizen. The military, economic, political and intelligence aspects are also covered, so that the traditional factors still play a role in drafting and assuming such texts, thought from the perspective of the law and culture of the place at the same time. We aim at a holistic view of law where the tradition factor plays a significant role: "A complex whole which includes knowledge, belief, art, morals, laws, customs and all other provisions and habits acquired by man as a member of a society.” (Herskovitz, 1967, p. 5)

Therefore, all these components established in the cited definition are traditional and they exercise their modelling function at both paradigmatic and syntagmatic level. At the paradigmatic level, we notice in the text law the persistence in popular and archaic terms, counter to the predictive function of the law which refers to predictable, near or distant future.

When a word such as attribution is used twice (articles 7 and 9), assuming that it has its own well-defined meaning, whereas its simple equivalence with “competence” and “prerogative”, neological terms, highlights the inadequacy of the context ("exclusive attribute” and “attributes” of military commander), neologisms, in the shown order, are more appropriate and more specific than the term used by the legislator, “exclusive jurisdiction” and “military commander's prerogatives”. The same inhibitory function of tradition we find -in other words; the legislator chose the popular term *needs*, instead of neologisms “obligation”, much more specific and more binding than the selected one in article 35 b.

At syntagmatic level, the cultural tradition lies in preserving some word combinations that raise problems of equivalence in another language ("to carry out”, “carrying the concept” or “defence needs”), where the presence of the popular word alongside the neologism is at least strange, if not generating unclear meaning. The practical solution, beneficial to legislators and workers of the defence system would be the choice for neologisms, translatable with minimal loss of meaning in official documents: *to complete*, instead of “to carry out”; *implementation*, instead of “carrying out the concept”, *requirements*, instead of “defence needs/mobilization”. As a public discourse, the National Defence Law favours tradition against modernity, itself frail since the current trend has surpassed even post-modernity and aims at trans-modernity. Privileging tradition has as outcome the creation of a monologue culture, predominately ethnocentric and its effect is autistic, since it ignores the diversity and prefers customary, hierarchical and impersonal rules. Ethnic superiority can be found at the conceptual level (anachronic discourse) whereas it makes no reference to the supranational text (EU and NATO), which is subject to national legislation.

The statement of the principles of sovereignty, independence and integrity (art. 1), although according to the Constitution, favours the Christian ethnic and tradition and puts into question the diversity. While claiming from the democratic and pluralistic principles, the legal text analysis reveals, that is puts it into a form and formalizes at the same time, the principle of hierarchy, similar in many respects to that of caste. The recipient of “national defence”, its formulation being limited and irregular with the facts and law of the current military institution, is the citizen, only that the text privileges, as purpose and meaning, the military caste, lacking explicit reference to state power and ignoring the civil institutions (schools, health, administration). Tradition, as a factor of modelling the language, manifests autarchically as suggesting a kind of “wild thinking”, that others must obey

unconditionally to the military caste rules, “in times of war", ambiguous and irregular phrases with the forms that the conflicts take in modern times.

2. Synchronic Perspective

With Romania's integration into NATO and the European Union the significance of political and military concepts of national defence law have relevant changes. The text of national Defence Law invokes further “the national sovereignty, independence and state unity, territorial integrity and constitutional democracy” (article 1), ignoring contemporary temporary brands. The limitation of sovereignty, dependence on over-state structures, the dilution of borders, territorial regionalization, outside democratic control, these are issues relevant to the facts which the law ignores, they are rather retrospective and little foresight.

The only reference to external benchmarks ("generally accepted rules of international law and the provisions of the texts to which Romania is part of”) from article 3 has a generic value and it does not contain any semantic national brand, that is the conative function specific to discourse recipient is not satisfied. The integration and accession of the country the supranational bodies lead to the relativization of the concept of “national defence”, the presence of Romanian troops in theatre of operations in various parts of the world claiming the denomination completion with the international adjective or renouncing to current democracy in favour of “security”, without other additions. National defence has functioned as such until recently, but is no longer in accordance with the spirit of time and reality itself. National defence was seen after the pugnacious philosophy; nowadays security relates mainly to prevention and is valid inside and outside their borders.

Another factor concerns the contemporary conceptions of time, routine in many aspects and visible opportunities for change in others. The legislator relied on the routine of citizen thinking for whom the army is a safety factor, an institution with a long tradition and prestige who won in our nation great battles. We may add to this fascination the uniform, arms, technique and solemn forms of public expression. The today’s’ pragmatism is that all these components of military halo, defender of the state, statehood and democracy, enter in an area of metamorphosis. Opinion polls in Romania credited army still high, cannot explain other than by routine thinking, a fact which does not account for what happened lately.

The text of the law maintains the illusion of the *status quo* of military institution which can be illustrative for the bardic language function, exercised mainly through the media. Radio and TV shows (mostly public stations), live coverage on military ceremonies, laudatory articles in the press, all tend to start creating myth-generic mechanisms that design the government army and its manifestations in the sublime, sacred and indestructible force of everyday life. Only conflicts of various issues, where involving military, perturb occasionally the pompous solemnity from the level of popular mentality.

The analyzed legal text ignores a reality of today: reducing the social component of the state and as immediate effect the drastic reduction of budget spending, which affects the financial resources available to the military. The tendency to reduce the welfare state is not circumstantial, and a possible exit from the crisis will not mean also a return to previous rates of budgetary allocations. In the current formulations, the articles of the law rely on a financially unrealistic optimism, any restrictive phrase was omitted deliberately. Referring to, the "treaties to which Romania is party" (article 3), is also vague, although the military reality, including the concept of defence has undergone radical changes in the meantime.

Any reference to an integrated defence system, missile shield and the presence of NATO military bases on the national territory and the financial contribution of the Romanian State to the expenditure of North Atlantic structures, is missing, still counting on the traditional concept of defence. While it is in use and it takes effect at the level of "leadership, forces, resources and territorial infrastructure" (article 6), National Defence Law is displaced compared with today's realities, not just as language, but rather as legal philosophy and defence. The dilution of the welfare state, the perceptible reality in most NATO member states, requires a nuanced terminology and retrieval of text, much too vague and too optimistic in relation to reality. From the synchronic perspective, the current law no longer meets the mission to organize the institutional framework of institution functioning "the national defence", it has become an "integrated defence".

The change in the national economy has brought the diminishing of the share role of state and the growth of private sector. In such circumstances the reference to the "financial, material and other" resources, retain the necessary amount of generality in such a text, but it completely ignores the economic reality dominated by the private sector, in its turn controlled by foreign investors more difficult to mobilize financially and materially, if necessary. All the articles of the law prove to be inadequate in terms of semantic meaning and the meaning of the terms selected as

a specific paradigm, as is the resulting expressions are inconsistent with the referent (social reality). A formulation such as: "... the resources consist of all the resources..." violates elementary rules of logic and language of a definition, repeating the same word, as a proximate gender, being in contradiction with the stylistic and logic rules. The semantic solution would be replacing the second term with "reserves" more qualified with the expressions that result from appending the "human, financial, material and other". The initial term has connotations such as "illuminated" "continuum", "renewability", while the latter is more limited, suggesting the foresight of the state and the legislator in connection with what is absolutely necessary in case of imminent danger.

Desynchronization, according to the ones mentioned above, is manifested in the human resource, phrases such as "the entire population fit for making effort" (article 15) or Romanian citizens "fit for military service" (article 16) is in great contradiction with reality and remember the old philosophy of defence involving "the entire people". The law should send a message of order, safety and provision, but, in its present form the law of national defence is obvious in inconsistency with the language in the general context in which it operates.

3. Communication Perspective

The "national defence" is an institution with distinctive marks in relation to other state institutions, which are subject to power structures, components of the economy, services, etc. and it is a significant presence in the Supreme Council of National Defence (CSAT). It involves a community of discourse, subsidiarily and one of language, that is a group of people who share a language or a common language variety that interact daily. The act of discursive communication at the level of military group has its natural extension in significant components of the social, but it ultimately involves every citizen interested of his safety and largely the family. As the consignee/receiver of the natural law is the citizen, the language cannot be only a military and legal, claiming a modelling able to transmit message safely, strength and comfort to any man interested in the context in which they live. National Defence Law is an institutional discourse and it establishes a power relationship between the system and national defence, other institutions or structures of the state. That is why the selected words from a paradigm at hand are signs, which are not directly related to the object (reality), understanding the sign

by the citizen as a result of the signification produced in the mind of those who use it, to get a “proper significant effect”.

The text of law requires semantic processing, otherwise signs induced in words or the enunciation of the text lead to “aberrant decoding” facilitated by what comes from processing, more or less careful of the old Law or the approximate translations that the Romanian language system rejects them. From the perspective of linguistic semiotics, the analyzed text proves to be inadequate as context and flawed as the discourse of group or mass. Although it has undergone several revisions (changes and additions: G.E.O. 13/2000, Law no 398/2001, Law no 38/2002, E.O. no. 74/2002; Law no 42/2004, etc.), the text law considered here, no longer meets the current requirements of an effective communication. It is tributary to the vision of heroic myth of the Romanian army's invincibility, with obvious ideological marks, borrowed from the panoply of the old political system.

The relationship between sign and object is no longer working properly and that is why the solution at hand is its reformulation, taking into account the acquisitions of military and legal doctrine, but also the sciences of language and effective communication. Speech professionalized group (soldiers plus employed on contract) autarchical or caste with obvious semantic distortion (some of them we reported here), wanted by the group members, but with unpredictable effects on the recipient's communication act; the law of “defence” says nothing other than what the Romanian citizen wants to hear, so the effect of persuading is minimal.

Given the fact that daily they hear the word *war*, associated with determinants such as media, trade, information, cold, etc. what can inspire more the two phrases of the text law, “peacetime” and “war time”. If the time of “peace" is disturbed by “wars”, including the detail that over 3,000 Romanian troops are currently engaged in “theatres of war”, how much security can be induced by a text that summarizes the concept Romania's state security, considering that even article 1 of the country's constitution is questioned by the minority groups, or is the National Defence Law drafted according to it!? The numerous changes of the legal text that have undergone in time, coming from military, legal or political, technical initiatives, the inadequacies have been corrected (not completely), but it induced, in the economy of text, factors of semantic tension that question the value of proper functioning in extreme circumstances.

In its current form, the law of National Defence Law is weak considering the forms of articles and the philosophy of ensuring that citizens' security, which is otherwise

almost totally ignored, prevailing the spirit of caste in the frustrating expression. From here the idea of imminence of war for which the "state and people" (improper coordination) must be prepared. As the war itself has lately only interethnic feature, the others are military interventions for correcting breaches from democratic principles or to preserve economic and strategic interests of great powers, the bellicose philosophy of the text is terminologically improper and inappropriate (paradigmatic and syntagmatic) with the spirit of the age (Saeculum). Improper functioning is also because of the interferences of types of discourse, easily noticeable: national (ist), military, historicized, patriotic, emphatically etc.

Of all, the most unpredictable effects at the level of the citizen is the first, an expression of an exacerbation of ethnocentrism; by repeated invocation of the term "national" and others in its semantic field, such as, "people" whose signs lead to ethnic field, it creates the polarization of citizen in aggressors and victims, a situation typical for ethnocentrism. In conclusion, the current law on national defence has at least three major inconsistencies: an inappropriate and dysfunctional processing of previous laws; a mosaic feature of the text, caused by repeated revisions and, finally, a clear lack of semiotic-linguistic analysis, without which the law does not properly transmit messages to citizens, the interferences covering the meaning encoded in terms of military discourse. The prevalence of military perspective in the actual text of the law leads to the idea of an inadequacy of the language to the required message of certainty of citizen safety, guaranteed by the reference law.

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